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5 Attorney for Defendant
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

10 CHURCH OF SCIENTOLOGY)	CASE NO. C 420153
11 OF CALIFORNIA)	
12 Plaintiff,)	REPLY TO OPPOSITION
13 vs.)	TO MOTIONS FOR SETTLEMENT
14 GERALD ARMSTRONG, ET AL)	AGREEMENT AND EXHIBITS
15 Defendant.)	
16)	FEBRUARY 21, 1989
17)	DEPT. 56
18)	9:00 A.M.

19 This is a reply by Defendant Bent Corydon to the
20 Oppositions to both Motions pending before the Court on this
21 date.

22 I. SETTLEMENT OF THE ARMSTRONG ACTION.

23 1. In their Opposition, Plaintiffs admit there was a
24 requirement to file a settlement agreement under seal, and
25 further admit that they did not. While they indicate Judge
26 Breckenridge became aware of this, they cite no orders that he
27 ever relieved them from the obligation.

28 2. In fact, the settlement agreement becomes more relevant
due to the argument asserted by Plaintiffs in opposition herein
to having to return exhibits. They argue that pursuant to the
stipulation and settlement, certain issues (damages) remain

1 viable in their appeal before the Appellate Court.

2 3. However, the appeal that was discussed in the transcript
3 of the proceedings (attached to Plaintiffs' opposition) was later
4 dismissed as premature.

5 4. A subsequent appeal was filed on February 9, 1987 after
6 the case was settled.

7 5. Plaintiffs, who are represented by the same attorneys
8 who represent two Scientology officials, Heber Jentsch and John
9 Carmichael, who are suing Bent Corydon for defamation, and who
10 represent the Church of Scientology which is also suing Bent
11 Corydon for defamation, seek to prevent collateral estoppel
12 effect of Judge Breckenridge's decision by arguing an appeal is
13 pending.

14 6. Should it turn out that the appeal is not bona fide, or
15 collusion, i.e., there has been in reality a mutual settlement
16 and no plans to proceed against Mr. Armstrong for damages in the
17 underlying complaint, but only plans to kill its collateral
18 estoppel effect, then Mr. Corydon can seek the proper relief from
19 the Appellate Court.

20 7. It would be inherently strange that Mr. Armstrong's
21 counsel would allow Mr. Armstrong to settle his cross-complaint
22 with the proviso that he may still be sued for damages following
23 underlying appeal and must bear the expense of said appeal. And
24 this after the return of documents sued over.

25 8. Even more strange would be that Armstrong counsel would
26 unoppose a motion to set aside the judgement on the complaint,
27 exposing his client to suit. These actions could only follow
28 because there is an agreement that the complaint will never be

1 retriend. We are certain no opposition will be filed to the
2 appeal, as none was filed to the motion to vacate. Proof of this
3 contention, we submit, will lie in the settlement agreement
4 itself, which will be a mutual dismissal. We have attached our
5 copy of the agreement which states that it is a mutual release.

6 9. If the Plaintiffs herein deny the same, it becomes
7 highly relevant to Mr. Corydon to examine their copy of the
8 settlement agreement in order to present his argument that the
9 appeal of this case is a sham designed to prevent Scientology
10 from suffering collateral estoppel effect from Judge
11 Breckenridge's decision.

12 10. In addition, the moving papers point out that the
13 settlement agreement we have attached clearly supports the
14 finding that Plaintiffs, and their counsel, are involved in the
15 obstruction of justice, i.e., the paying off of key witnesses so
16 they will not assist parties adverse to Scientology.

17 11. As previously stated, Mr. Corydon has been sued for
18 defamation, and Mr. Gerald Armstrong was a source of information
19 for the communications he made that he was sued over. Mr.
20 Armstrong is not within the judicial jurisdiction and cannot be
21 compelled to testify in court unless he will voluntarily appear.
22 Costs of out-of-state depositions are expensive, and are not the
23 same as live testimony. Further, it is an obstruction of justice
24 to just force such expense upon a defendant.

25 12. In the moving papers we have argued that what we
26 understand to be in the settlement agreement is an obstruction of
27 justice, unclean hands, and will entitle Mr. Corydon to
28 dismissals.

1 13. In fact, a motion to dismiss based upon what we contend
2 is the settlement agreement has already been made in the
3 Coordinated Defamation Actions, but has been taken off calendar
4 until Defendant Corydon's Summary Judgment has been ruled upon.
5 Even if Mr. Corydon wins that Summary Judgment Motion, should the
6 Plaintiffs therein appeal, we will still go forward with that
7 motion. Highly germane will be Plaintiff's copy of the
8 settlement agreement that Judge Breckenridge had ordered to be
9 filed herein.

10 14. Plaintiffs argue that their actions are appropriate and
11 are not an obstruction of justice. We contend otherwise and are
12 prepared to take our argument to the highest court.

13 15. However, that issue is not for this court to decide.
14 This court need only recognize that the issue exists and is to be
15 decided in the courts where the lawsuits against Mr. Corydon are
16 pending. Here the issue is only whether or not the agreement is
17 relevant to those issues in Mr. Corydon's defense.

18 16. Plaintiffs herein argue that the settlement agreement
19 was supposed to be filed under seal, and therefore it was
20 bargained for that it would be protected.

21 17. As stated in the original motion made before this court
22 to allow inspection of the file, bargained for agreements will
23 not prevent an interested party from obtaining relevant documents
24 for his legal defense. Parties may not bargain between
25 themselves to secrete evidence from a third party defendant. We
26 stipulate that such document will be subject to the current
27 orders of the Court of Appeals re disclosure.
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II. REMOVED EXHIBITS.

18. Plaintiffs point out that C.C.P. 1952 was not cited in the moving papers. 1952a, while allowing for retention, does not allow for destruction. When read in conjunction with the other sections, it is clear that the allowance of these documents to be returned to respective parties is in trust.

19. The very transcript attached to the opposing papers argues that the Appellate Court had the exhibits necessary to the appeal. It further states that when the case was over and those documents were returned they would go to the Plaintiffs. Further, the opposing papers states that those documents were returned from the Appellate Court and then given to the Plaintiffs because the appeal was, in fact, dismissed, as premature.

20. Thus, having the documents, Plaintiffs filed a second appeal on February 9, 1987. This time, the Appellate Court does not have the documents it had before it during the first appeal. (This gives further credence to the argument that the appeal is not in good faith.)

21. Thus, as an appeal is pending, while Plaintiffs may have retention, the same is in trust, and as they were marked and entered into evidence, are still public records. Further, by example, the Appellate Court, as admitted in the transcript, once designated 50 such exhibits it wished to examine, and could conceivably do so again.

22. In summation, when all the arguments are cut through, what is before the court is an over-all plan to secrete documents and relevant evidence from adverse Scientology litigants and to

1 keep the findings of Judge Breckenridge made after a complete
2 trial from having their lawful effect.

3 23. Armstrong, and his counsel, for their part, received
4 considerable monies. Scientology may have bargained for the
5 secretion, but the same is against public policy.

6 III. EXISTING EXHIBITS

7 24. As pointed out in the moving papers, the court ordered
8 as to existing documents that discovery be propounded and that
9 they are to be answered. We point to specific language of the
10 court ordering the answers.

11 25. The opposition states that the Interrogatory answers
12 were propounded to the wrong parties, i.e., two "Presidents" of
13 Scientology corporations rather than Scientology. They further
14 indicate that the undersigned advised the court they were not
15 parties and that the court directed that discovery be served upon
16 a non-party. This is not correct. The undersigned's fear was
17 that the Defamation Plaintiffs will respond by saying that they
18 "do not know." The court then suggested service upon
19 Scientology.

20 26. This is not a case where the Plaintiffs in the
21 defamation cases responded that they did not know, but instead
22 refused to answer at all, stating spurious objections which
23 violate the intent of this court's order. What's important to
24 note is that the attorneys for the Plaintiffs herein are also the
25 attorneys for Carmichael and Jentzsch who are suing Corydon.
26 Carmichael and Jentzsch are Presidents of Scientology
27 corporations. They do have access to the information. In fact,
28 their opposition to their Summary Judgement Motion, provided many

1 documents from Scientology, and an affidavit of a Scientologist
2 re Scientology records.

3 27. We remind the court that the court's tentative ruling
4 was to allow these exhibits to be inspected. No privilege was
5 found to apply. It was after oral argument that the court
6 decided to have the issue of relevance first examined and ordered
7 that discovery requests be first sent. It also provided the
8 court may further inspect the documents themselves to determine
9 the issue.

10 28. Having acquiesced to this request by the Plaintiffs,
11 after a contrary tentative ruling, the spirit has clearly been
12 violated by the refusal of Jentzsch and Carmichael, represented
13 by herein counsel for Plaintiffs, to respond to discovery
14 request. Therefore, it is respectfully submitted that the court
15 go back to its tentative ruling which was to allow an inspection
16 and copy of these documents. In so doing, we agree that the
17 usage of these documents shall be subject to the current orders
18 of the Appellate Court concerning usage same until the
19 determination of that appeal, or future order.

20 IV. DISCOVERY.

21 29. Plaintiffs argue that in the Carmichael-Jentzsch case,
22 there is a stay on discovery pending determination of a Summary
23 Judgement Motion. What Plaintiffs do not point out is that the
24 Interrogatories sent herein, and the answers, were prior to that
25 stay. Second, this is not discovery, but investigation, i.e.,
26 attempts to examine court record and documents. This does not
27 involve the issue of seeking to compel the Plaintiffs in the
28 coordinated defamation actions to respond to questions or to

1 produce documents, but to enforce herein a right to inspect a
2 public file. Additionally, there are no stays in the other
3 actions pending by the Church of Scientology against Mr. Corydon,
4 i.e., the one in which he is represented by Toby Plevin, and a
5 defamation case filed by the Church of Scientology of California
6 against Mr. Corydon in Washington, D.C.

7 30. Therefore, it is respectfully submitted that the
8 motions before this court be granted.

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10 DATE: 2-15-89

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15 PAUL MORANTZ
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9 FOR THE COUNTY OF LOS ANGELES

10 CHURCH OF SCIENTOLOGY)
11 OF CALIFORNIA)
12 Plaintiff,)

13 vs.)

14 GERALD ARMSTRONG, ET AL)
15 Defendant.)
_____)

CASE NO. C 420153
DECLARATION OF
PAUL MORANTZ

FEBRUARY 21, 1989
DEPT. 56
9:00 A.M.

1 I, PAUL MORANTZ, do hereby declare as follows:

2 I am the attorney for the Intervenor, Bent Corydon, and if
3 called to the stand and sworn under oath I could competently
4 testify as follows:

5 1. Plaintiffs Heber Jentsch and John Carmichael, who are
6 suing Bent Corydon for defamation, are represented by Timothy
7 Bowles and Kendrick Moxon who represent the Plaintiff herein.
8 Thus, the court has jurisdiction to order said attorneys, and
9 has, to comply with the discovery requests in that case to
10 identify which documents in the Armstrong case, if any, come
11 within said discovery request.

12 2. Based upon our copy of the settlement agreement, that
13 includes Armstrong, a motion was filed in the Coordinated
14 Defamation Cases to dismiss for obstruction of justice and
15 unclean hands, i.e., the paying off of several witnesses to not
16 voluntarily speak, cooperate, or appear at any litigation adverse
17 to Scientology. In a telephone conversation with one of the
18 parties to said settlement, it was confirmed that said person did
19 not have a claim pending against the Church of Scientology at the
20 time Scientology offered the monies.

21 3. There is currently a Summary Judgment Motion pending in
22 the Coordinated Defamation Actions. In opposition received,
23 Timothy Bowles, attorney for Plaintiffs herein, argued that the
24 Breckenridge decision should not have collateral estoppel effect
25 because an appeal herein was pending.

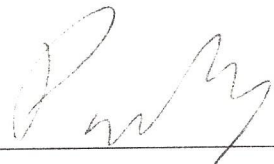
26 4. Your Declarant telephoned the Court of Appeals clerk
27 and discovered that no briefs had been filed. This is despite
28 the fact that the notice of appeal was filed two year ago.

1 5. There is currently a stay order on discovery in the
2 Coordinated Defamation Actions, but the Interrogatories and the
3 responses thereto, by Jentzsch and Carmichael, concerning what
4 relevant documents may exist in the Armstrong file were made and
5 responded to by both parties prior to said stay.

6 6. In opposition to Summary Judgment in the Coordinated
7 Defamation Cases, Jentzsch and Carmichael filed documents for
8 Church of Scientology records, even an affidavit from a
9 custodian. Thus, these Scientology "Presidents" had the capacity
10 to supply answers to Interrogatories, as do their attorneys, who
11 are counsel for Plaintiffs herein.

12 I declare under penalty of perjury that the above is
13 and correct to the best of my belief.

14 Executed on 2-15, 1989 at Los Angeles,
15 California.

16
17 
18 _____
19 PAUL MORANTZ

STATE OF CALIFORNIA, COUNTY OF

I am the

in the above entitled action or proceeding; I have read the foregoing

and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, and as to those matters I believe it to be true.

I declare, under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____ at _____ California

(Signature)

PROOF OF SERVICE BY MAIL (1013a, 20155 C. C. P.)

STATE OF CALIFORNIA, COUNTY OF

I am a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is:

P.O. BOX 511, Pacific Palisades, Ca. 90272

On Feb. 15 1989 I served the within Reply to Opposition to Motions for Settlement Agreement and Exhibits and Declaration of Paul Morantz

on the Parties

in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Santa Monica, CA addressed as follows:

See Attached Proof of Service

Feb. 15, 1989

Executed on _____ at _____ California

Judica Schubek

ATTACHED PROOF OF SERVICE

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